

State Notes

TOPICS OF LEGISLATIVE INTEREST

July/August 2006



Gone Fishin': The Decline of the Game and Fish Protection Fund **By Jessica Runnels, Fiscal Analyst**

In tandem with the shrinking revenue to the State's General Fund, many State restricted or special revenue funds are experiencing a decline. One of these is the Game and Fish Protection Fund, which contributes 25.0% of the total budget in FY 2006-07 for the Department of Natural Resources (DNR). Revenue to this Fund has stagnated and slightly declined, creating budgetary strain in areas that have not been highly affected by the statewide General Fund reductions enacted in the past five fiscal years. The Game and Fish Protection Fund supports activities throughout the DNR, including the maintenance and development of wildlife habitat, operation of the State's six fish hatcheries, monitoring of animal, fish, bird, and plant species, research and educational programs, and enforcement of game laws.

The policies governing use of the Game and Fish Protection Fund often seem mysterious. Revenue to the Fund comes primarily from the sale of hunting and fishing licenses, but the equation to divide up the money is complicated. Within the Fund, there is a general purpose fund and multiple subfunds. In addition, a trust fund with the same name makes annual contributions to it. Further complicating its distribution, expenditures from the Fund are tied to Federal funding, but the strings attached to the money are rarely explained fully, although mentioned frequently as an obstacle to using the Fund to compensate for General Fund budget reductions.

Revenue and Expenditures

Revenue to the Game and Fish Protection Fund is decreasing while costs are increasing. The two principal reasons for the loss of revenue are a decrease in the sales of hunting and fishing licenses and the fact that license fees have been relatively constant for almost 10 years. In June 2005, the Natural Resources Commission was presented with a staff report detailing expenditure reductions of \$8.1 million spread over three fiscal years that were necessary to operate within the anticipated revenue. Table 1 demonstrates the reduction in hunting and fishing license sales over the six-year period of 2000 through 2005. While there are a few ups and downs, the intervening years generally show a steady decline in licenses sold.

Table 1

| Hunting and Fishing License Sales from 2000 to 2005 | | | |
|--|------------------|--------------------|----------------|
| License Type | 2000 | 2005 | Change |
| Fish | 1,405,265 | 1,289,212 | (8.3)% |
| Small Game | 358,725 | 294,965 | (17.8) |
| Firearm Deer | 349,768 | 288,985 | (17.4) |
| Archery Deer | 84,467 | 58,410 | (30.8) |
| Combination Deer | 740,871 | 721,651 | (2.6) |
| Antlerless Deer ¹⁾ | 683,517 | 552,738 | (19.1) |
| Spring Turkey ¹⁾ | 215,555 | 200,956 | (6.8) |
| Fall Turkey ¹⁾ | 72,746 | 46,712 | (35.8) |
| Totals | 3,910,914 | \$3,453,629 | (11.7)% |

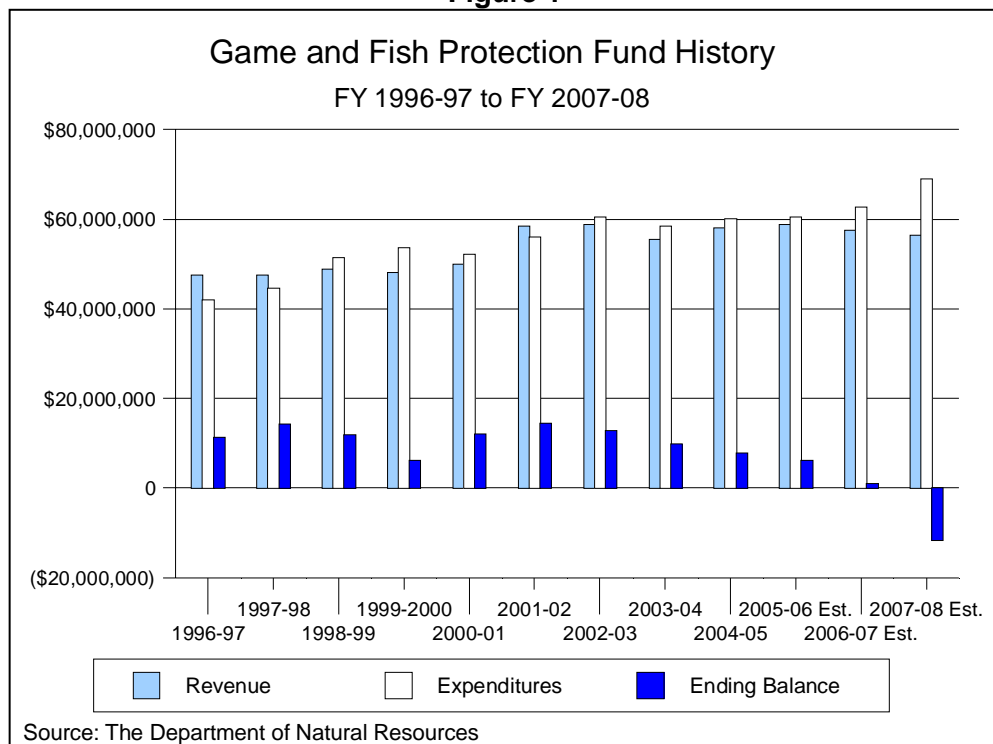
¹⁾ Includes applications

Source: Department of Natural Resources



The amounts charged for hunting and fishing licenses are established in the Natural Resources and Environmental Protection Act. Most of the current license fees were implemented in 1997. Six types of licenses (small game, firearm deer, archery deer, bear, fur harvester, and fish) were increased by \$1 in 2001 and 2005 pursuant to provisions included in the 1996 act setting the current license fees. In FY 1996-97 and FY 1997-98, annual revenue was greater than expenditures. Effective March 1, 2001, after three years of higher expenditures and declining Fund balances, the DNR Director used statutory authority to increase the fees for those six licenses by \$1. This worked for four more years and then the Director increased the fees by \$1 again on March 1, 2005, to bring revenue and expenditures closer together. The fluctuations in revenue and expenditures are shown in Figure 1. The program reductions implemented over a three-year period are an effort to match expenditures and revenue. The DNR Director cannot increase license fees again without new statutory authorization. A proposal to increase hunting and fishing license fees is anticipated within the next year to support the budget in FY 2007-08 and beyond.

Figure 1



The Game and Fish Protection Fund also receives an annual transfer of funds from the Game and Fish Protection Trust Fund. The Trust Fund receives royalties from minerals extracted from land purchased with Game and Fish Protection Fund money. The Trust Fund is not appropriated in a budget act, but interest and earnings on the Trust Fund and up to \$6.0 million from the balance is transferred annually to the primary Fund's general purpose account. In FY 2005-06, the total amount transferred from the Trust Fund to the Game and Fish Protection Fund's general purpose fund will be about \$12.0 million.



In addition to the Game and Fish Protection general purpose fund, there are six specialty subfunds that receive portions of the fees for specific licenses or dedicated revenue from a legal settlement. The subfunds are: deer range improvement, turkey, waterfowl, wildlife resources protection, youth hunting and fishing education and outreach, and fisheries settlements. Statute requires that the subfunds be used for habitat development for the species identified in the fund title. The subfunds comprise 10.0% of the total in the Game and Fish Protection Fund and the general purpose account is the remaining 90.0% of the Fund.

Of the annual appropriations from the Fund, approximately 98.0% are included in the DNR operating budget. The DNR divisions of Wildlife, Fisheries, and Law Enforcement receive 74.0% of the appropriations from the Fund in the DNR budget. The balance is spent for real estate and land management, research grants, administrative expenses, forest certification activities on land purchased using the Fund, and payments in lieu of taxes on land purchased with Fund money. Appropriations from the Fund in other State budgets include payments to the Departments of Attorney General, Civil Service, History, Arts, and Libraries, Management and Budget, and Treasury, and the Legislative Auditor General for services provided to the DNR. Table 2 compares the amounts appropriated from the Fund.

Table 2

| FY 2006-07 Appropriations from the Game and Fish Protection Fund, Including General Purpose and Subfunds | | |
|---|---------------------|-------------------------|
| Purpose | Amount | Percent of Total |
| Program Units | \$55,292,200 | 75% |
| Administration | 14,392,400 | 20% |
| Purchased Land PILT | 2,040,000 | 3% |
| Other State Departments | 1,444,500 | 2% |
| Total | \$73,169,100 | 100% |

Source: Public Act 344 of 2006

Statute limits expenditures to certain activities within the DNR and prohibits use of the Fund for activities not specified in law. Allowable uses of the Fund are provided for in MCL 324.43553:

- a) Department operations related to the protection, propagation, distribution, and control of game, fish, birds, fur-bearing animals, and other wildlife forms, including the enforcement and administration of the game, fish, and fur laws of the State and equipment necessary to perform these duties.
- b) The propagation, liberation, and increase of game, fur-bearing animals, birds, or fish.
- c) The purchase, lease, and management of land for establishing and maintaining game refuges, wildlife sanctuaries, and public shooting and fishing grounds for the purpose of propagating and rearing game, fur-bearing animals, birds, and fish.
- d) Investigations and the publication of information relative to the propagation, protection, and conservation of wildlife.
- e) Appropriate educational activities relating to the conservation of the wildlife of this State.
- f) Grants to colleges and universities in this State to conduct fish and wildlife research.



One of the reasons that the use of the Fund seems mysterious is the fine line between allowable uses and those that are not. For example, the DNR is testing deer for the presence of Bovine Tuberculosis in a combined effort with the Michigan Department of Agriculture to eradicate the disease from the bovine population in the State and to prevent the disease from spreading to the wild deer population. While the testing is being done on game animals as part of the effort to prevent the wild deer herd from contracting Bovine TB, the disease is agricultural and the original issue was raised in an agricultural context. In this situation, the Game and Fish Protection Fund may not be used to pay for the testing of the deer.

Federal Funding

The DNR will receive approximately \$43.0 million from the Federal government in FY 2006-07. Of this amount, about \$18.5 million is contingent upon the DNR's adhering to certain Federal restrictions on the expenditure of hunting and fishing license fees. The Federal revenue is generated from Federal taxes imposed on items such as sporting arms, ammunition, bows and arrows, certain fishing tackle, electronic trolling motors, yachts, and motorboat fuel.

Sport Fish. In order to receive Federal funds for fish programs, the State had to enact a statement that it would use revenue from license fees paid by anglers in compliance with rules and regulations promulgated by the U.S. Department of the Interior and only for fish and game activities under administration of the DNR (MCL 324.47701). Specifically, the State must comply with all provisions of the Federal Aid in Sport Fish Restoration Act (often called the Dingell-Johnson Act of 1950) to receive the Federal funds for this program, which are estimated to be \$8.3 million in FY 2006-07.

The amount of Federal support may be up to 75.0% of the cost of approved sport fish-related projects and the remaining 25.0% is provided by the State from a non-Federal source. Projects may include acquisition and improvement of fish habitat; research into fishery resources; surveys and inventories of fish populations; and the development of public access. Each state's share is based 60.0% on its licensed anglers and 40.0% on its land and water area. Theoretically, this means that a decline in the number of fishing licenses sold affects the amount of Federal funds received by the State. However, other states have experienced a similar decline in license sales, so the Michigan portion of the Federal funding has not been reduced.

Wildlife. The State had to enact a similar statute regarding license fees paid by hunters stating that it would comply with rules and regulations of the U.S. Department of Agriculture and only use the State and Federal funds only for fish and game activities under administration of the DNR (MCL 324.40501). The State must comply with the Federal Aid in Wildlife Restoration Act (often called the Pittman-Robertson Act of 1937) to receive \$10.2 million in Federal funds in FY 2006-07. This program is now administered by the Fish and Wildlife Service of the U.S. Department of the Interior.

Also similar to the Federal sport fish funding, the amount of Federal support for wildlife projects is based on the number of licensed hunters in the State and the total area of the State. The Federal funds can pay for up to 75.0% of the total project cost with the State match coming from a non-Federal source. Wildlife projects may include acquisition and improvement of wildlife habitat; introduction of wildlife; research, survey, and inventory of wildlife populations;



development of public access; and hunter education programs, including the construction and operation of public target ranges.

According to both of the Federal programs, receipt of the Federal funds is all-or-nothing, so a small deviation in the expenditure of license revenue from the uses specified in the Federal acts may result in a loss of all of the Dingell-Johnson or Pittman-Robertson Federal money. The Federal government periodically audits the State's expenditures from the Game and Fish Protection Fund. Usually, these audits are uneventful and the State is found to be in compliance with Federal regulations. However, the audit completed for the period of October 1, 1995, to September 30, 1997, found areas of noncompliance. In settlement of the findings, in FY 2002-03 the DNR was required to reimburse the Game and Fish Protection Fund a total of \$2,456,000. Of the total reimbursement, \$560,000 was from the Snowmobile Registration Fee Fund, \$1,340,000 was from the Off-Road Vehicle Trail Improvement Fund, and \$556,000 from the State's General Fund. Federal funds were not withheld since the DNR restored money to the Game and Fish Protection Fund and was not found to be diverting revenue intentionally.

Constitutional Proposal

The Game and Fish Protection Fund, including its general purpose fund and all subfunds, and the Trust Fund are included in ballot proposal 2006-1, which will be before the voters in the general election this November. The proposal would create in the Michigan Constitution the Conservation and Recreation Legacy Fund with 17 existing DNR funds and two trust funds as accounts within the larger Legacy Fund. Since the use of the Game and Fish Protection Fund is tied to a large amount of Federal funding, the additional restrictions that would be imposed if the Fund were established in the Michigan Constitution would not be any more limiting than the Federal regulations. The ballot proposal is an effort to restrict the expenditure of user fees to activities consistent with the statute establishing the fees, preventing diversion of the fee revenue. The ballot proposal would not increase or decrease any user fees or affect the amount of revenue received or spent by the DNR.

Conclusion

In order to support its game and fish programs, the DNR is looking for ways to decrease expenditures from the Game and Fish Protection Fund and increase revenue to it. As demands on the State General Fund increase in other areas of the overall State budget, departments with a significant portion of restricted funds, such as the DNR, are asked to pay for an even greater percentage of their operations with those restricted funds.

The Game and Fish Protection Fund contributes such a large percentage of the DNR budget that it is a potential target for this strategy, although the Federal and statutory restrictions limit its flexibility. With General Fund appropriations prioritized to other departments, inflationary increases and additional policy costs for the DNR are borne by State restricted funds. This makes it difficult to decrease expenditures in programs without jeopardizing the natural resources and recreational opportunities within the State. The remaining option is raising more revenue for the Game and Fish Protection Fund. One can hope that the future brings more "Gone Fishin'" signs hanging on front doors instead of on account books.